



National Energy Board

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# Reasons for Decision

Westcoast Energy Inc.

RH-2-97  
Part I



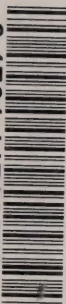
August 1997

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Tolls for 1997 to 2001

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# **National Energy Board**

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## **Reasons for Decision**

In the Matter of

**Westcoast Energy Inc.**

Application dated 6 November 1996, as  
amended on 20 May 1997, for tolls or  
methodologies for fixing tolls over the period  
1 January 1997 to 31 December 2001

**RH-2-97  
Part I**

**August 1997**

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as represented by the National Energy Board

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## Recital and Appearances

IN THE MATTER OF the *National Energy Board Act* (the "Act") and the Regulations made thereunder; and

IN THE MATTER OF an application by Westcoast Energy Inc. dated 6 November 1996, as amended on 20 May 1997, for certain orders respecting interim and final tolls for 1997 and for approval of an incentive toll settlement for the period 1997 to 2001 pursuant to subsection 19(2) and Part IV of the Act; and

IN THE MATTER OF the National Energy Board Hearing Order RH-2-97.

HEARD in Vancouver, British Columbia on 23, 24, 25 and 27 June 1997.

BEFORE:

|             |                  |
|-------------|------------------|
| R. Illing   | Presiding Member |
| R. Priddle  | Member           |
| J.A. Snider | Member           |

APPEARANCES:

|                       |   |
|-----------------------|---|
| J. Lutes<br>R. Sirett | Westcoast Energy Inc.   |
| N.J. Schultz          | Canadian Association of Petroleum Producers                         |
| D. Bursey             | Council of Forest Industries, Methanex Corporation and Cominco Ltd. |
| F.J. Weisberg         | Export Users Group  |
| R. Fraser             | Amoco Canada Petroleum Company Ltd.                                 |
| C. Johnson            | BC Gas Utility Ltd.   |
| R.C. Beattie          | CanWest Gas Supply Inc.   |
| P. Cochrane           | Foothills Pipe Lines Ltd.   |
| D. Holgate            | Grizzly Valley Shippers   |
| K.L. Meyer            | Northwest Pacific Energy Marketing Inc.                             |
| N. Mills              | NOVA Gas Transmission Ltd.  |
| A.S. Hollingworth     | Novagas Clearinghouse Ltd.  |

C.B. Woods

PanEnergy Marketing Limited Partnership

S.R. Miller  
R. Cameron

Petro-Canada Oil and Gas

D. Holgate  
F.C. Basham

Talisman Energy Inc.

L.A. Boychuk

Board Counsel



## Overview

*(Note: This overview is provided for the convenience of the reader and does not constitute part of these Reasons for Decision. For details the reader is referred to the relevant sections of the Reasons for Decision)*

### **Toll Settlement**

The Board approved a five-year incentive-based negotiated settlement on tolls, or methodology for determining tolls, for the period 1997 to 2001. For gathering and processing services, shippers have the option to contract for one, three or five year predetermined base tolls plus a surcharge that is indexed monthly to gas prices, primarily at Sumas, Washington. The settlement allows Westcoast to benefit from cost savings and the generation of new business and revenue.

The base tolls for gathering and processing reflect a 500 basis point reduction of the allowable return on equity. The Company may recover the revenues associated with this reduction through the gas price sensitive surcharge. In addition, Westcoast may record higher depreciation expense and earn a premium return on equity. The revenue recovery starts at a monthly commodity gas price of US\$1.35/MMBTU and caps at a ceiling of US\$2.00/MMBTU.

Changes in gathering and processing contract levels will not affect the tolls. Revenue variances associated with contract level changes on the existing facilities will be deferred and will be dealt with after 2001 in accordance with light-handed regulatory arrangements to be negotiated by parties. Toll for incremental facilities and for existing facilities available after 1998 will be negotiated between Westcoast and specific shippers and will not be charged on a rolled-in basis.

For transmission services, shippers have the option of tolls that are predetermined for five years (Option A). Alternatively, they can choose tolls which are adjusted to reflect the current costs of Westcoast and contract levels (Option B). The determination of Option B tolls also incorporates an incentive component which allows Westcoast and shippers to share the benefits of cost savings and encourages Westcoast to generate new discretionary revenues.

The tolls in the settlement do not include recovery of expenditures incurred in the Fort St. John and Grizzly Valley Expansion Projects. These tolls will be adjusted to reflect the Board's cost recovery decisions.

Westcoast is committed to providing reliable service and will pay Contract Demand Credits when reliability targets are not met. Procedural changes affecting all parties are required in order to achieve the intention of optimum reliability for the Westcoast system.

### **Fort St. John Expansion Project Costs**

Of the \$42.18 million in project costs incurred in the Fort St. John Expansion Project that Westcoast applied to recover, the Board approved the recovery of \$26.03 million. The Board also approved the amortization of the allowed costs on a monthly basis to the appropriate zonal cost of service over a



ten-year period commencing 1997. The unamortized balance of the allowable amount will earn a return calculated at the cost rates and using the capital structure proposed by Westcoast.

### **Grizzly Valley Expansion Project Costs**

The Board denied recovery of the project development costs of \$18.53 million for the Grizzly Valley Expansion Project.



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## Chapter 1

# Background and Application

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On 6 November 1996, Westcoast Energy Inc. ("Westcoast", the "Company" or the "Applicant") applied to the National Energy Board (the "Board" or the "NEB") pursuant to section 19 and Part IV of the *National Energy Board Act* (the "Act") for approval of interim and final tolls effective 1 January 1997 that would yield a 25% increase over tolls for 1996. Westcoast also requested approval of an incentive-based methodology for fixing the revenue requirement for mainline transmission services for the five-year period 1997 to 2001. Further, Westcoast stated that it intended to file at a later date a proposal for an incentive-based tolling methodology for gathering and processing services.

On 23 December 1996, the Board issued Order TGI-8-96 (Appendix II) allowing Westcoast to charge tolls, on an interim basis effective 1 January 1997, that would yield an increase of 10% over the tolls in effect for 1996 for a typical service movement.

In response to the letter of 17 January 1997 from the Board concerning the timing of further filings related to 1997 tolls, Westcoast indicated by letter dated 27 January 1997 that it had been negotiating with certain parties on issues related to its 6 November 1996 application and that significant progress had been made. Westcoast undertook to keep the Board and interested parties apprised of developments which might have an impact on the timing of the Board's consideration of issues affecting Westcoast tolls.

On 18 February 1997, Westcoast advised the Board that negotiations with the Canadian Association of Petroleum Producers ("CAPP") had resulted in an agreement in principle for a toll settlement for the five-year period 1997 to 2001. The Company stated that it would negotiate with CAPP and other interested persons to convert the agreement in principle into a formal agreement. Westcoast indicated that it would be in a position to file a revised application based on the outcome of these negotiations in the second quarter of 1997.

Following Westcoast's statement that any agreement would not encompass issues related to the recovery of expenditures incurred by the Company for the Fort St. John and Grizzly Valley expansion projects ("cost recovery issues"), the Board, by letter dated 11 April 1997, sought the comments of interested persons on the merits of initiating a process to expedite consideration of the cost recovery issues. Having considered the comments filed, the Board initiated an information request process on 2 May 1997.

On 20 May 1997, Westcoast filed an amended application for final tolls effective 1 January 1997. This amended application incorporated a multi-year incentive toll settlement (the "Settlement") dated 16 May 1997 concerning the tolls, or the methodologies for fixing tolls, which Westcoast may charge over the period 1 January 1997 to 31 December 2001. For 1997, depending on the terms and options selected, for a typical service movement, the tolls in the Settlement represented increases over tolls for 1996 ranging from approximately 4% to 15%, excluding the impact of the gas price sensitive gathering and processing demand toll adjustment and the Board's decisions on the cost recovery issues. This settlement was negotiated by Westcoast and CAPP, the Council of Forest Industries, Methanex

Corporation and Cominco Ltd. ("COFI et al"), the Export Users Group ("EUG"), BC Gas Utility Ltd. ("BC Gas") and CanWest Gas Supply Inc. ("CanWest"). On 20 May 1997, Westcoast also filed responses to the information requests addressed to it pursuant to the process initiated by the Board regarding the cost recovery issues.

On 23 May 1997, the Board issued Hearing Order RH-2-97 which set down Westcoast's application for a hearing commencing 23 June 1997 and established the Directions on Procedure and the List of Issues (Appendix III). In the Hearing Order, the Board invited intervenors to file statements indicating support for, or opposition to, the Settlement by 12 June 1997. The Ministry of Employment and Investment of British Columbia (the "Province") and CAPP filed letters of support for the Settlement. No letters of opposition were received.

In its intervention, BC Gas proposed to add to the RH-2-97 proceeding the issue of an unbundled point-to-point toll from Kingsvale to the export point of Westcoast. By letter dated 4 June 1997, the Board sought the views of parties on whether the issue should be added. The Board decided, on 13 June 1997, not to add the issue to the proceeding. However, the Board stated that it would consider expeditiously any application for such a point-to-point service toll in a separate proceeding, should that be necessary following discussions at the Westcoast Toll and Tariff Task Force ("TTTF").

On 17 June 1997, the Board wrote to Westcoast regarding the conduct of the hearing. The Board asked that Westcoast witnesses for the Settlement be prepared to address the economic environment faced by the Company's gathering and processing business, and with respect to capacity to be contracted on the basis of negotiation or bidding during the five-year term of the Settlement, procedures that Westcoast would put in place to safeguard the public interest. As well, the Board directed that Westcoast, or any other party who might wish to do so, be prepared to address, in argument, the Board's authority to allow the negotiated tolls and the market-based arrangements described in the Settlement.

The Board heard evidence in Vancouver, British Columbia from 23 to 25 June 1997 and heard final argument on 27 June 1997.



## Chapter 2

# Settlement of Westcoast's Tolls, or Methodology for Setting Tolls, for 1997-2001

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## 2.1 Economic Environment

In its opening statement, Westcoast described the economic and commercial environment that motivated parties to negotiate for a toll settlement.

Westcoast noted that Northeast B.C. has seen some significant development of the natural gas resource in the last five years even though it is a higher-cost area of the Western Canada basin. Westcoast explained that this area is the farthest from market, reserves are generally deeper and more complex, the cost of drilling is higher and the composition of gas is such that it costs more to process. Moreover, the industry has often been faced with low gas prices.

Westcoast indicated that there are now more competitors offering gathering and processing service. Currently, Westcoast has approximately 79 percent of the total gathering and processing business in Northeast B.C. compared to nearly 100 percent ten years ago. In 1996, Westcoast saw approximately 12 percent decontracting on its gathering and processing system and is forecasting a further decontracting of approximately 7 percent effective 1 November 1997. According to Westcoast, the increased competition is one of a number of factors which caused a decrease in contract demand units, resulting in an increase in tolls.

Westcoast noted that shippers have been dissatisfied with Westcoast's existing toll structure because it was too rigid to allow recognition of the unique circumstances and too slow to confirm special tolls. Westcoast indicated that shippers have also been dissatisfied with toll uncertainty resulting from expansions, contract levels, and special one-off bypass tolls.

Westcoast suggested that under the current regulatory environment, it has not been able to quickly develop new gathering and processing capacity and be responsive to the needs of its customers. To illustrate the need to shorten the time required to add new capacity, Westcoast gave the example that competitors, who are subject to provincial jurisdiction, can design a plant and put it in service in about nine months.

Another factor contributing to the negotiation of the Settlement, according to Westcoast, relates to past discussions on the impacts of regulation on the Northeast B.C. natural gas business. These discussions, which involved various parties and the B.C. Government, culminated in the Upstream Regulatory Reform Project Report in late 1995. Following these discussions, a need to change the existing structure for the benefit of the sector at large was recognized.

## 2.2 Key Provisions of the Settlement

The multi-year incentive toll settlement negotiated by Westcoast with CAPP, COFI et al, EUG, BC Gas, and CanWest is reproduced in its entirety as Part II of these Reasons for Decisions. Readers should refer to the original document for details of the terms of the Settlement, which is an agreement on the tolls, or methodology for fixing tolls, which Westcoast may charge over the period 1 January 1997 to 31 December 2001.

The Settlement provides for fixed tolls over a 5-year period for Westcoast's gathering and processing services in Zones 1 and 2. The Settlement also provides that a Shipper may choose either 5-year fixed tolls or tolls determined annually for transmission service in Zones 3 and 4.

More specifically, the terms of the Settlement governing the provision of service by Westcoast in Zones 1 and 2 are set out in Schedule A to the Settlement. Key provisions for gathering and processing service include:

- Fixed tolls will be for either 5-year, 3-year or 1-year terms. Tolls will be lower for the 5-year term than for the 3-year term and lower for the 3-year term than for the 1-year term. Total amount of service contracted for the 5-year and 3-year terms is limited to 50% and 25%, respectively, of existing contracted capacity;
- Tolls will include a demand toll adjustment component tied to the selling price of natural gas;
- A bidding process, if feasible, is planned to be introduced for the determination of interruptible tolls;
- A revenue deferral account is proposed to accumulate differences between actual annual toll revenue and a base level of annual toll revenue. The future disposition of this deferral account will be one subject of negotiations leading to a new scheme of light-handed regulation;
- After 31 December 1998, tolls for available existing capacity will be determined through negotiations between Westcoast and the shipper requesting service or through an open season bidding process. All tolls will be filed with the Board for approval under Part IV of the Act;
- Tolls for incremental capacity will be determined through negotiations with potential shippers. The cost of such incremental capacity will not be tolled on a rolled-in basis;
- The parties to the Settlement contemplate that by the end of the term of the Settlement, Westcoast and shippers will be freely negotiating market-based arrangements in a manner consistent with the provision of service by Westcoast on a competitive basis such that light-handed, complaint-based regulation would be appropriate. The principles of this new regulatory approach will be the subject of further negotiations, which the parties intend to complete by 31 December 1997 and will be subject to Board approval; and



- The parties have also agreed to negotiate the terms of a policy governing the interconnection of the gathering or treatment facilities of third parties with Westcoast's facilities.

The terms of the Settlement governing the provision of service in Zones 3 and 4 are set out in Schedule B of the Settlement. Key provisions for transmission service include:

- All existing shippers have the option to elect to pay fixed tolls for a 5-year period (Option A Tolls) or to pay tolls which will be calculated annually in accordance with a prescribed methodology (Option B Tolls);
- The revenue requirement in respect of Option B tolls will be calculated annually based on the previous year's actual costs and a fixed escalation factor. The revenue requirement will be adjusted each year to share any variance between the previous year's actual revenue requirement and the revenue requirement on which Option B tolls were based and includes sharing of discretionary revenues; and
- A bidding process for allocating interruptible service will be introduced. Shippers will nominate and bid for interruptible capacity within a range of tolls with the service allocated to the shipper bidding the highest toll within the range.

Tolls in all four Zones will be adjusted to reflect the Board's decision with respect to the Fort St. John and Grizzly Valley cost recovery applications (Chapters 3 and 4 of these Reasons).

Schedule C of the Settlement describes changes to the accounting policies and procedures to be used by Westcoast during the term of the Settlement. In particular, depreciation rates for Incremental Facilities will be those rates approved by the Board as part of its approval process under Part III of the Act. As well, in any year during the term of the Settlement where the aggregate demand toll adjustment tied to the selling price of natural gas exceeds a threshold amount, a portion of that excess will be used to increase the amount of depreciation expense with respect to facilities in Zones 1 and 2 for that year.

Certain agreed-to principles related to service reliability on Westcoast's pipeline system are described in Schedule D of the Settlement. The changes to the existing General Terms and Conditions and Toll Schedules that will be required include:

- Westcoast and Shippers will form joint area operating committees in Zones 1 and 2 for each of the Fort Nelson, Fort St. John and Pine River areas in order to set annual target levels of reliability for each area;
- Demand charge credits for Zones 1 and 2 will be based on actual annual reliability performance for each area. There is no change for Zone 3 and 4 demand charge credits; and
- Procedural and system operating changes to be implemented include Nominations '97, RGT and Treatment Nominations, elimination of credits for underutilized firm service, designation of receipt point operators, balancing procedures and charges, estimate to actual

variance charges, overproduction charges, electronic flow measurement, operational balancing with interconnecting pipelines, and pay on production procedures.

Under the Settlement, the parties are committed to further negotiations on a number of items including the specifics of market-based arrangements for services in Zones 1 and 2, the terms of an interconnection policy governing third party interconnection with Westcoast facilities in Zones 1 and 2, and disposition of the revenue deferral account for Zones 1 and 2. Once negotiated, details will be filed with the Board for approval.

## **2.3 Guidelines for Negotiated Settlement**

The Board considered the Settlement in the light of its Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs dated 23 August 1994. In particular, the Board was guided by the following criteria:

- All parties having an interest in a pipeline's traffic, tolls and tariffs should have a fair opportunity to participate and have their interests recognized and appropriately weighed in a negotiated settlement. The settlement process should be open and all interested parties should be invited to participate in the actual settlement negotiations;
- A negotiated settlement process must not fetter the Board's ability and discretion to take into account any public interest considerations which may extend beyond the immediate concerns of the negotiating parties;
- The settlement process must produce adequate information on the public record for the Board to understand the basis for the agreement and to assess its reasonableness; and
- The Board will not accept a settlement which contains provisions that are illegal, or contrary to the Act.

The Board was also guided by the provision in its Guidelines which provides that when presented with a settlement package, the Board will either accept or reject the package in its entirety.

As noted above in the summary of the key provisions of the Settlement, there are a number of matters which remain to be negotiated by the parties and for which Westcoast has confirmed that Board approval is not sought at this time.

Also as noted above, Westcoast had stated that the parties contemplated that tolls for certain gathering and processing services would be negotiated between Westcoast and shippers requesting service, subsequent to 1 January 1997 and certainly by the end of the term of the Settlement. In this regard, the Board asked Westcoast to explain whether it is likely that negotiated tolls could result in two or more different tolls in respect of substantially similar circumstances and conditions of traffic over the same route, contrary to section 62 of the Act. Further, the Board directed Westcoast, or any other party who may wish to do so, to address in argument, the Board's authority to allow negotiated tolls as discussed in the amended application.



In response to the Board's information requests, Westcoast stated that the negotiated tolls will be based on the specific circumstances and conditions which exist at the time the tolls are negotiated and that Westcoast could not anticipate, at this time, what those specific circumstances and conditions will be. During the proceeding, Westcoast's witnesses clarified that the Company was asking the Board to simply approve the concept of negotiated tolls. In argument, Westcoast confirmed that it is not asking the Board in this proceeding to make any determination under Part IV and that if and when Westcoast enters into a negotiated toll arrangement as contemplated under the Settlement, it will file the tolls with the Board and the tolls will be public.

## **2.4 Intervenor's Positions**

As signatories, CAPP, COFI et al, BC Gas, CanWest and EUG reiterated their support for the Settlement at the hearing. The Province also expressed support. No interested person expressed opposition to the Settlement.

In its intervention, Orbit Oil and Gas Ltd. ("Orbit") was concerned that the Helmet/Peggo Agreement might not have been fully considered in arriving at the Settlement and that Orbit could be disadvantaged if the Settlement is approved as filed. During the proceeding, Westcoast stated that negotiations with producers in the Helmet/Peggo and the Hossitl Midwinter areas were continuing and that the Company expected that these discussions would result in the successful conclusion of commercial arrangements which would have no impact on the Settlement. Orbit did not participate in the hearing.

In a letter of comment, Unocal Corporation ("Unocal") indicated that the May filing of the revised application was the first opportunity for Unocal to comment directly on the Settlement. As well, Unocal expressed concern with respect to the proposed elimination of Underutilized Demand Charge Credits ("UDCC") and the potential impact of this elimination on users of the Aitken Creek storage facility. Westcoast suggested that as a member of the TTTF and CAPP, Unocal would have had an opportunity to comment on the terms of the Settlement. In argument, CAPP submitted that Unocal has raised a legitimate concern as to how storage will operate under the terms of the Settlement but suggested that the concern is capable of resolution through future discussions.

With respect to outstanding issues arising from the Settlement, Northwest Pacific Energy Marketing Inc. ("NORPAC") sought assurance that these matters would be resolved in the proposed time frames or within a reasonable time frame to be imposed by the Board. NORPAC also requested that the Board require "approval" of the TTTF for all unresolved issues arising from the Settlement and not simply that the issues be placed before the task force for "review".

Novagas Clearinghouse Ltd. ("NCL") stated that it was not opposed to the Settlement but that it was not in a position to comment further given that key details have yet to be filed with the Board for approval.

NCL noted that the Settlement should lead to an eventual deregulation of gathering and processing in Northeast B.C. It stated that producers and shippers in the area would not want an environment which discourages alternate suppliers of services.

NCL noted that it must compete with both the NEB-regulated gathering and processing business of the company and Westcoast Gas Services Inc. ("WGS"). Together, these Westcoast companies have a combined market share of about 90 percent of the gas flowing into Westcoast's main transmission

system. NCL argued that it cannot compete successfully against an entity with considerable market power which would be without regulatory supervision. NCL suggested that it will be dependent upon the Board's vigilance to ensure that partial deregulation does not provide opportunities for an undue competitive advantage to Westcoast.

Regarding filings with the NEB, including filings associated with one-off negotiated tolls, NCL urged the Board to require Westcoast to serve copies on all interested parties seeking them. If Westcoast claims confidentiality, NCL took the view that Westcoast should be required to file reasons or an application for confidentiality.

With respect to the Board's authority to allow negotiated tolls, CAPP and NCL were the only intervenors to address this matter. CAPP suggested that, given that the issues will be raised at a later point when an application is made, the Board need not deal specifically with the issue at this point other than to note that it is the desire of the parties to pursue these initiatives. NCL observed that whether or not the Board has the authority to allow the negotiated tolls proposed by the Settlement very much depends upon what is ultimately filed with the Board and, accordingly, NCL could not offer meaningful comment on this issue at this time.

### *Views of the Board*

The Board notes the views of Westcoast regarding the economic environment faced by the Company in its gathering and processing business in northeast British Columbia, including the demand by producers for faster responses to service requests and for more flexible tolling arrangements. The Board commends parties on the initiatives taken to date to discuss and attempt to resolve, through consultation and negotiation, complicated issues related to the tolls and tariffs of Westcoast.

The Board acknowledges that a number of outstanding matters arise from the Settlement and remain to be negotiated. They include key elements related to light-handed regulation, an interconnection policy, and how storage would operate in the context of the reliability arrangements among others. The Board encourages parties to continue their efforts to discuss and resolve these matters.

The Settlement includes terms under which tolls for existing and new gathering and processing capacities would be negotiated between Westcoast and specific shippers. The Board notes that it is the desire of the parties to pursue these initiatives and that the results of these negotiations will be brought to the Board for approval. Given that Westcoast and the parties are not seeking approval of specific negotiated tolls at this time and on the basis that Westcoast will file any such tolls with the Board for approval and that these tolls will be public, the legality of the Settlement, from this perspective, is not at issue in this proceeding.

The Board wishes to remind parties that the Board's approval of the Settlement is not an approval of elements that are not known at this time. The Board also reminds parties that the current statutory framework regarding tolls and tariffs has certain boundaries that need to be taken into account and that parties entering specific tolling arrangements in the future should ensure that the requirements of the Act are met in each and every instance.



The Board continues to be of the view that the process of the toll and tariff task force should be as open and inclusive as possible and that each task force should have the flexibility to establish its own procedure. At this time, the Board does not consider it necessary to give specific direction, as requested by NORPAC, regarding the process by which the TTTF should operate. However, the Board is of the view that Westcoast should ensure that all stakeholders have been offered the opportunity to participate in this task force.

Turning to the request of NCL concerning the service of Westcoast filings, the Board is of the view that with respect to any future filings by the Company relating to matters arising from the Settlement, Westcoast should serve copies on intervenors to the RH-2-97 proceeding. With respect to negotiated tolls, the Board considers that the parties should be given the opportunity to freely negotiate and does not consider it necessary to prescribe filing requirements for negotiated tolls at this time. The Board is prepared to consider expeditiously the requests of NCL regarding the filings of Westcoast and confidentiality claims, should that prove to be necessary.

Section 4.6 of Schedule A of the Settlement provides that Westcoast may record an increase in depreciation expense for gathering and processing facilities under certain defined situations. In order to give effect to this section of the Settlement, the Board is prepared, as requested, to exempt Westcoast, for the period in which the Settlement is in effect, from the application of sections 48 to 55 of the *Gas Pipeline Uniform Accounting Regulations* ("GPUAR") concerning depreciation and related matters to Westcoast's facilities in Zone 1 and Zone 2.

As well, the Board is prepared to authorize the Company to maintain, for the period the Settlement is in effect, those deferral accounts that are required to give effect to the Settlement and to dispose of the balances in such deferral accounts from time to time in accordance with the terms of the Settlement. All other deferral accounts, including those previously approved by the Board and which were continued by Order TGI-8-96, will not be renewed as of 1 January 1997, the effective date of the Settlement.

Having examined the Settlement in the light of the Board's 23 August 1994 Guidelines for Negotiated Settlement of Traffic, Tolls and Tariffs, the Board is satisfied that the Settlement complies with these Guidelines. The Board is of the view that the tolls and methodologies for determining tolls set forth in the Settlement result, or will result, in tolls which are just and reasonable.

### **Decision**

**The Board finds that the Settlement filed by Westcoast contains tolls and methodologies for determining tolls which are, or which form an appropriate basis for making a finding of tolls which are, just and reasonable for the years 1997 to 2001. The Board approves as filed the Settlement dated 16 May 1997 between Westcoast and certain parties.**

## Chapter 3

# Fort St. John Expansion Project Costs

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### 3.1 Background

On 6 October 1994, Westcoast applied to the Board for the construction of additional raw gas transmission, processing and transmission facilities in the Fort St. John area of British Columbia. The cost of the project was then estimated at \$397.4 million. The Company also requested that the tolls for services to be provided through the applied-for facilities be determined on a rolled-in basis.

On 31 October 1994, the Board issued hearing order GH-5-94, setting forth Directions on Procedure for a public hearing. On 5 January 1995, the Board held a pre-hearing conference to address procedural and other issues, including the time at which the tolling and jurisdiction issues should be heard.

The Board heard evidence from 6 February to 10 March 1995. On 26 May 1995, a majority of the Panel decided that the Board did not have jurisdiction over the proposed facilities, except for a proposed loop that would connect with Westcoast's mainline. Westcoast appealed the Board's decision to the Federal Court of Appeal. On 9 February 1996, the Court set aside the Board's decision declining jurisdiction and directed the Board to decide the application on its merits. On 4 March 1996, the Board released the GH-5-94 Decision on the merits of the application and approved the construction of the applied-for facilities and the rolled-in toll treatment.

Subsequently, Westcoast sought confirmation from the expansion shippers of their need for the project capacity, and determined that there was insufficient demand. On 4 April 1996, Westcoast advised the Board of its decision not to proceed with the Fort St. John Expansion Project ("FSJ Expansion"). Westcoast explained that, after the Board's decision of 26 May 1995, uncertainty over whether the project would proceed as well as changing market conditions resulted in shippers altering their drilling programs. These factors were also the cause for third parties to develop alternative projects such as WGSJ's Jedney and Highway Plants.

### 3.2 Cost Recovery Application

On 15 July 1996, Westcoast applied, as amended, to the Board to recover the following costs:

- a) \$37.91 million in expenditures incurred from 1994 to 1996. This amount included approximately \$12.27 million in cancellation charges on major equipment ordered before the Board granted Part III approval. It was net of \$5.48 million in proceeds from materials which Westcoast re-sold to other parties; and
- b) \$4.27 million in Allowance for Funds Used During Construction ("AFUDC"), calculated at the short term borrowing rates of the Company over the years 1994 to 1996.

Westcoast proposed that the \$42.18 million in costs, which are currently recorded as construction work in progress ("CWIP"), be transferred to a Fort St. John Expansion Project Rate Base Account effective



31 December 1996. It also proposed that the balance in this account be amortized monthly to its cost of service over a ten year period commencing in 1997. The unamortized balance at the end of each month would earn a return calculated at fixed rates of return of 8.39% for Zones 1 and 2 and 8.07% for Zones 3 and 4 for the five-year period of the Settlement.

These rates were established on the assumption that, over the period 1997 to 2001, the allowable costs have been financed with equity and debt in proportions of 38.4% and 61.6%, respectively, for Zones 1 and 2 and 30% and 70% for Zones 3 and 4, respectively. It was also assumed that the fixed cost rates would be 10.67% for common equity and 6.96% for debt.

Westcoast has also proposed to establish an Inventory Sales Deferral Account. The net proceeds from the sale of any remaining inventory or materials that the Company owned would be credited to this account. Further, the balance of the deferral account, together with carrying charges calculated at 8.39% for Zones 1 and 2 and 8.07% for Zones 3 and 4 would be credited to the unamortized balance at 31 December of each year and the tolls for the following year adjusted accordingly.

### **3.3 Westcoast's Position**

Westcoast submitted that, in deciding on this matter, the Board should have regard to four overriding factors: first, the environment in which Westcoast was operating when it filed its application; second, the provisions of the GPUAR regarding preliminary survey and investigation costs; third, the question of whether Westcoast's common equity return compensates its shareholders for the risk of non-recovery of costs of utility projects which do not proceed; and fourth, the fairness of allowing Westcoast the opportunity to recover these costs in its tolls.

Regarding the industry environment, Westcoast explained that, commencing in 1993, there was a record level of exploration and development in the Fort St. John area, which led to numerous shippers' requests for additional raw gas transmission in the Fort St. John area and treatment service at the McMahon Plant. Producers were spending significant amounts of money to acquire lands and explore for and develop gas reserves with expectations that Westcoast would apply to the Board to expand its system as required.

The project was developed as an integrated expansion to Westcoast's existing plant and shippers committed to the expansion capacity under long-term service agreements. The expansion shippers expected rolled-in tolls for the expansion.

Regarding the GPUAR, Westcoast argued that they make specific reference to costs incurred on projects which do not proceed. It suggested that such costs, if prudently incurred, are properly recoverable in a pipeline company's tolls.

Regarding its allowed equity return, Westcoast argued that it does not compensate for the risk of utility projects that do not proceed. It also argued that the Board's decision on jurisdiction was not a mere "regulatory error or inconsistency", the risk of which would have been compensated for by the equity return.

Finally, regarding fairness, Westcoast suggested that its application reflects a fair sharing of cost burden inasmuch as Westcoast: (1) proposed a longer amortization period than it would have preferred; (2) calculated AFUDC at its short-term borrowing rate instead of its higher rate of return on rate base;

and (3) requested a ten-year amortization period thereby putting at risk recovery of the costs that would remain beyond the five-year term of the Settlement.

Specifically regarding the FSJ Expansion, Westcoast added that the Board should allow the costs for the following reasons:

- (1) Westcoast undertook the project to provide pipeline capacity to shippers who needed and requested additional service in conformity with the queuing and access provisions of Westcoast's tariff. The Board confirmed that the Project was economically feasible and required in the public convenience and necessity and approved the tolling of the facilities on a rolled-in basis;
- (2) The vast majority of the Fort St. John costs, including a significant portion of the major equipment cancellation costs, fall within the category of preliminary survey and investigations; and
- (3) The circumstances which gave rise to the decision not to proceed with the Project were unique and unusual inasmuch as it results from the delay and uncertainty caused by the jurisdictional decision of 26 May 1995.

Westcoast claimed that, from the inception of the project in early 1994 to the date of release of the Board's jurisdiction decision in May 1995, its actions in developing and advancing the project, including decisions taken regarding the procurement of major equipment, were prudent.

In January 1995, when BC Gas raised the issue of the Board's jurisdiction, Westcoast considered that it was prudent to continue project expenditures, believing that the Board would not repudiate federal jurisdiction over the project. Westcoast explained that, in addition to obtaining legal advice, it considered the fact that the Board had been regulating Westcoast for 35 years, that the Province of British Columbia did not support the BC Gas jurisdictional objection, and that BC Gas was the only party opposing federal jurisdiction over the project. It also considered that BC Gas had unsuccessfully raised jurisdictional objections in the GH-1-94 proceeding regarding the Sukunka fuel gas pipeline and in the RH-1-92 proceeding regarding the liquid products stabilization and fractionation facilities at the McMahon plant.

Regarding the procurement of major equipment prior to the Board's approval, Westcoast claimed that it had to commence procurement in December 1994 to maintain the engineering design schedule and the 1 May 1996 in-service date. Westcoast explained that major equipment for plant construction was unique, being project-specific, and that the expansion shippers were emphasizing to Westcoast the importance of getting the project completed in a timely manner. Guided by the McMahon Plant GH-5-90 Decision where the Board had cautioned Westcoast on the importance of the development of the design and cost estimates of projects, Westcoast now proceeded with project engineering design on a schedule that enabled it to produce a "control cost estimate" around the time the Board rendered its decision on the project.

Westcoast argued that all major equipment cancellation charges are recoverable because (1) the procurement activity was necessary to meet the project in-service date agreed to with shippers; (2) the commencement of procurement activity was necessary to maintain the engineering design schedule to produce a "control cost estimate" for filing with the Board and which the Board's GH-5-94 Decision required prior to construction; (3) the Board approved the project; and (4) the cancellation charges were incurred as a direct result of the Board's jurisdiction decision of 26 May 1995.



Westcoast estimated that approximately 25%, or \$3.1 million, of the cancellation charges relate to vendor engineering work. The rest, or about \$9.2 million, relate to procurement and fabrication, though with a significant engineering component as performed by third-party subcontractors or vendors.

### **3.4 Intervenor's Positions**

At the hearing, CanWest, COFI et al, EUG, BC Gas and NORPAC were of the opinion that the Board should only approve the expenditures normally necessary to support an application for Board consideration.

CanWest and EUG stated that Westcoast acted imprudently when it kept spending monies despite the uncertainty associated with the Board's approval of the project and the rolled-in toll design, and the jurisdictional objection of BC Gas. CanWest noted that Westcoast disregarded CanWest's suggestion in early January 1995 to stop spending on the project until Board approval was obtained. It also noted that Westcoast did not stop spending when the Province indicated that it was not prepared to issue a permit to pre-clear the new Aitken Creek Plant site until the Board has endorsed the plant site.

COFI et al stated that Westcoast was imprudent in having pre-ordered materials because the application was not routine, inasmuch as it involved significant expenditures and unique-purpose equipment. COFI et al added that Board approval was not assured; that Westcoast had created its own time pressure; that it did not focus on the critical elements of the project, such as the Provincial site clearing permit; that it did not mitigate its risk exposure through backstopping agreements or other arrangements; and that, after the Board's Decision of 26 May 1995, it did not explore the Province's offer to expedite the review of the project.

EUG believed that Westcoast's project schedule was overly ambitious. Contrary to the Grizzly Valley project, Westcoast did not delay the in-service date for such factors as the timing of the hearing, the jurisdiction issue and the length of the hearing process. Further, EUG noted that the lack of approval for site clearing did not affect Westcoast's rate of spending. EUG submitted that the WGSII initiatives (Jedney and Highway Plants) undermined support for the project and that, as a result, it would be unfair to award Westcoast the costs of developing a project which its own affiliate effectively destroyed.

BC Gas argued that Westcoast should not recover the cost of pre-ordered materials because Westcoast: (1) had in effect treated the Board as a rubber stamp; (2) could have applied earlier for the site clearing permit; (3) committed for equipment as early as December 1994 and had committed up to \$33 million before it applied to the Board for site clearing approval; and (4) did not alter its pattern of expenditures when it changed the in-service date to 1 September 1996 from 1 May 1996.

BC Gas further considered the Company imprudent when it abandoned the project before talking to the producers and without considering whether the project could have proceeded under provincial jurisdiction.

NORPAC contended that Westcoast need not to have ordered pipe for the Aitken Creek loop on 10 February 1995 at a cost of \$4.3 million. NORPAC submitted that this cost, which was attributed to Zone 3 for toll design purposes, should be disallowed for not being related to the cost of the regulatory application.

### *Views of the Board*

Under cost of service regulation, as a general principle, only assets that are used and useful for providing service are included in a regulated company's rate base. Tolls are set on the basis of these assets, giving the utility a reasonable opportunity to realize a return of, and on, capital.

It is recognized that, in the course of doing business, a regulated company may incur costs associated with preliminary surveys, plans, investigations and similar items made for the purpose of determining the feasibility of projects for gas pipeline service. A regulated company may also incur costs associated with facilities applications under the Act, related Board hearings and the acquisition of options to purchase land, easements and similar items for use in contemplated projects. In this light, the Board notes that the GPUAR include a "Preliminary Survey and Investigation Charges" account (Balance Sheet Account Number 172) for the purposes of recording these costs.

In the Board's view, however, the existence of Account 172 does not mean that expenditures of the nature described above will necessarily be reflected in tolls. The Board must first consider whether, in the context of the prevailing circumstances, the costs have been prudently incurred.

It follows then that in appropriate circumstances the Board could allow, for toll-setting purposes, expenditures related to preparing project cost estimates and the application, presenting the applicant's case to the Board, and refining cost estimates to an appropriate degree, even during the course of a regulatory proceeding. However, when a project does not proceed, the Board would allow the recovery of costs incurred, particularly those that go beyond preliminary surveys and investigations, only under exceptional circumstances.

In this connection, Westcoast brought to the Board's attention that there was clear and continuous shipper support for the FSJ Expansion, as evidenced by a large number of producer shippers signing underpinning service agreements. As well, Westcoast pointed out that the project was initiated in 1993 when gas exploration in the Fort St. John area was at a high level and that expansion shippers wanted speedy implementation of the Project.

The Board considers that, in these circumstances, it was prudent for Westcoast to have vigorously pursued the FSJ Expansion to the stage of preparing the application to the Board and taking it through the hearing process. The costs involved in preliminary surveys, plans, investigations, and the preparation and pursuit of the NEB application are therefore allowed.

As to costs going beyond this stage, Westcoast argued that additional expenditures were needed to produce a control cost estimate soon after the Board rendered its decision on the project as well as to meet the 1 May 1996 in-service date. Westcoast also argued that procurement of major equipment of the type required for projects like the FSJ Expansion cannot be stopped and re-started without significant adverse



financial and scheduling consequences and that it was prudent to procure materials prior to Board approval, given shippers' requirements and the potential for revenues to be foregone by the producers.

The Board recognizes that these factors led Westcoast's executive management to decide to maintain a project schedule leading up to a 1 May 1996 in-service date. One consequence of that decision is that the Company began to order materials in November 1994 and, by 4 January 1995, had committed to approximately \$12 million in major equipment and pipe purchases. This decision clearly exposed these expenditures to the risk that the Board would not approve the FSJ Expansion, or would not approve it in a timely manner, or that some other unforeseen circumstance would intervene and the expenditures would, in whole or in part, not be recoverable. Westcoast evidently assessed this risk to be small. Was that assessment justified? The Board thinks not, and that on two grounds - regulatory principles and practical circumstances.

In regard to regulatory principle, whatever may be the Board's "track record" in terms of, for example, granting timely approval for similar major projects in the recent past, no regulated company should count on similar future approvals to the extent of committing to major equipment purchases with attendant cancellation charges.

With regard to practical circumstances of the FSJ Expansion, in early 1995 a number of significant events having an adverse potential took place. Thus, at the pre-hearing conference in January 1995, BC Gas announced its intention to raise jurisdictional issues at the hearing. At about the same time, CanWest advised Westcoast to stop spending on the project until Board approval was obtained. Then in February 1995, the Province of B.C. decided not to issue a permit for site clearing until Board approval for the project was obtained. At that time, while Westcoast delayed the in-service date to 1 September 1996, the Company did not change its procurement schedule.

In the Board's view, by assessing the risk of recovery as it did, by commencing the ordering of equipment in November and December of 1994 and, further, by maintaining its pace of spending beyond early 1995 when potentially adverse events took place, the Company had accepted the risks associated with those actions. It would therefore be unfair to require shippers to bear the costs arising from these actions of Westcoast.

In reaching this conclusion, the Board has considered the fact that the FSJ Expansion was ultimately approved by the Board and that Westcoast's actions subsequent to the Board decision, in May 1995, on jurisdiction over facilities were both rapid and incisive. These facts, however, do not determine that all of the incurred costs should be recovered.

In the Board's view, Westcoast should be allowed to recover only those expenditures incurred to bring the FSJ Expansion to the stage of the NEB public hearing of evidence, including the conduct of the hearing and the production of a sufficiently refined project cost estimate by the anticipated time of the Board's decision on the



application. The acceptable expenditures can, in the Board's view, best be arrived-at by deductions from the applied-for amounts as follows.

First, the cost of procurement and fabrication of equipment, as reflected in the cancellation charges submitted by the Company, should be disallowed. The Board considers that, in the circumstances of this case, a portion of the equipment costs would have contributed to developing a better cost estimate and, hence, in this instance, is related to the preparation and presentation of the application to the Board. This portion of the equipment costs is, therefore, allowable. Based on the record of this proceeding, the Board finds reasonable Westcoast's estimate that approximately 25% of the \$12.27 million in equipment cancellation charges, or \$3.07 million, can be attributed to a better refinement of the capital costs associated with the proposed FSJ facilities for purposes of the application to the Board. Accordingly, the remainder, or \$9.20 million, would primarily be related to procurement and fabrication and is disallowed.

Second, the cost of 18-inch and 24-inch line pipe currently in inventory should also be disallowed. In the Board's view, Westcoast should have adjusted its purchasing schedule by the time it ordered the 24-inch pipe for \$4.3 million on 10 February 1995. As for the remaining sections of 18-inch pipe with a residual cost of approximately \$1.4 million, it was ordered in November 1994. In the opinion of the Board, Westcoast ordered this material earlier than was necessary in any event.

Third, there should be deducted that portion of AFUDC associated with the above disallowance which amounts to approximately \$1.25 million, calculated at the short term borrowing rates of the Company over the years 1994 to 1996. On this basis, the allowable AFUDC amount is approximately \$3.02 million.

The allowable amount of expenditures which may be recovered is therefore \$26.03 million.

Turning to the amortization of the allowed FSJ Expansion costs, the Board considers the ten-year period proposed by Westcoast to be acceptable. As well, the Board considers to be reasonable the Company's requested return on the unamortized balance. Specifically, over the period 1997 to 2001, it is assumed that the allowable costs have been financed with debt and equity as follows:

|               |                           |
|---------------|---------------------------|
| Zones 1 and 2 | 38.4%:61.6% (equity:debt) |
| Zones 3 and 4 | 30%:70% (equity:debt)     |

The cost rates will be fixed for the five-year period using 10.67% as the common equity rate and 6.96% as the debt rate.

In light of the Board's determinations regarding recovery of cost incurred in this project, the Board is of the view that any further proceeds realized by Westcoast from resale of pipe inventory and partially fabricated materials should accrue to Westcoast shareholders. At the time of their cancellation, the major equipments were at different stages of completion. Any attempt to attribute future sales proceeds separately to

engineering, procurement or fabrication would be difficult and somewhat arbitrary. Moreover, the proceeds from disposal of partially fabricated equipment would likely be substantially lower than the cancellation charges. Accordingly, the Board is of the view that an Inventory Sales Deferral Account, as requested by Westcoast, would not be required.

#### **Decision**

**The Board approves the transfer of \$26.03 million in project costs from construction work in progress to a Fort St. John Expansion Project Rate Base Account effective 31 December 1996. This amount is made up of \$23.01 million in as-spent dollars and \$3.02 million in AFUDC. The Board directs Westcoast to remove the remaining FSJ Expansion costs from the utility accounts of the Company.**

**The Board also approves the amortization of the Fort St. John Expansion Project Rate Base Account on a monthly basis to the appropriate zonal cost of service over a ten year period commencing 1997. The unamortized balance at the end of each month will earn a return calculated at the cost rates and using the capital structure proposed by Westcoast.**



## Chapter 4

# Grizzly Valley Expansion Project Costs

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### 4.1 Background

On 4 November 1994, Westcoast filed an application with the Board seeking approval for the construction of certain additional pipeline facilities in the Grizzly Valley resource area, including a new gas processing plant at Tumbler Ridge. The application was set down for public hearing to commence immediately following completion of the FSJ Expansion hearing in February 1995. The hearing was later re-scheduled for the early fall of 1995.

On 10 July 1995, Westcoast filed a revised application, replacing its earlier application in its entirety, seeking approval of the construction of pipeline facilities and an expansion of the existing Pine River gas processing plant. In its 10 July 1995 application, Westcoast also requested that the Board refer the question of the Board's jurisdiction over the project to the Federal Court of Appeal. The reference was heard by the Court in January 1996 and on 9 February 1996 the Court determined that the Board had jurisdiction over the project. Following receipt of the Court's decision, Westcoast sought confirmation from the Grizzly Valley shippers of their continued support for the project. As a result of that process, Westcoast determined that there was insufficient demand for the capacity and therefore decided not to proceed with the Grizzly Valley Expansion Project ("GV Expansion").

### 4.2 Cost Recovery Application

On 31 July 1996, Westcoast filed an application with the Board formally withdrawing the GV Expansion application and applying for an order authorizing it to recover the associated costs over a 10-year period commencing January 1997. On 19 September 1996, the Board decided to consider Westcoast's cost recovery application in conjunction with Westcoast's 1997 tolls proceeding.

The amount of Grizzly Valley costs which Westcoast applied to recover was \$18.53 million which includes cash expenditures of \$16.53 million and AFUDC of \$2.0 million, calculated using Westcoast's short-term borrowing rate.

### 4.3 Westcoast's Position

Westcoast argued that the Grizzly Valley expansion project was a proposed expansion of Westcoast's regulated pipeline facilities undertaken by Westcoast pursuant to requests for capacity from shippers in the Grizzly Valley area. Westcoast also argued that the Board's 26 May 1995 GH-5-94 Decision on jurisdiction, and the associated uncertainty which resulted from that decision, caused a lengthy delay in the in-service date for the project, which ultimately led to the decision by Westcoast and the Grizzly Valley producers not to proceed with the project.

According to Westcoast, all of the costs incurred by Westcoast in developing the GV Expansion were clearly preliminary survey and investigation costs under Account 172 of the Board's GPUAR. Westcoast asserted that its decision to pursue the Grizzly Valley project and to bring an application before the Board was prudent and that all of the costs incurred on that project were prudently incurred.

A topic of considerable discussion during the proceeding was the backstop agreement entered into between Westcoast and the Grizzly Valley shippers. Westcoast and the shippers entered into this agreement because: (1) a joint venture or partnership approach was adopted to develop the project; and (2) gas development proceeded in tandem with the project, due to the extremely high cost of developing the gas supply in the Grizzly Valley area. As part of the negotiations, the shippers agreed to reimburse Westcoast for 75% of the project-related costs which the Board does not permit Westcoast to recover.

Westcoast argued that the Board should decide, as a matter of principle, whether the costs incurred by Westcoast to investigate and apply for an expansion of its regulated facilities in the Grizzly Valley area were prudently incurred and should be recovered in tolls. Further, Westcoast submitted that it would be unfair to require Westcoast and the Grizzly Valley producers to bear these costs through the mechanism of the backstop agreement, given that the decision not to proceed with the project resulted from the delay caused by the 26 May 1995 GH-5-94 Decision on jurisdiction.

#### **4.4 Intervenor's Positions**

The Grizzly Valley Shippers ("GVS") supported Westcoast's application to recover the development costs of the GV Expansion. In the view of GVS, the costs were incurred by Westcoast in pursuit of a project to provide service and the expenditures, for design costs and planning studies, were incurred to provide the Board with a complete application upon which a reasoned decision could be based. GVS agreed with Westcoast that the costs were preliminary investigation costs within the meaning of Account 172 of the Board's GPUAR and that all costs were prudently incurred in this case.

With respect to the backstopping agreement, GVS argued that the existence or non-existence of the arrangement has nothing to do with the main issue in this proceeding, that being whether Westcoast's decisions were prudent. Finally, GVS stated that if Westcoast is not permitted to recover the Grizzly Valley costs, the Grizzly Valley shippers will be penalized for the prudence of their actions.

COFI et al took issue with Westcoast's statement that the proximate cause of the project not going ahead was the Board's Decision on jurisdiction. Instead, it submitted that the proximate cause of the project not going ahead related to the shippers' decision that the markets and the supply did not justify it at that time. COFI et al was of the view that it was prudent for Westcoast to do a certain amount of investigation of projects, and it was prudent for Westcoast to cover the risk in that situation by obtaining the backstopping agreement. In the view of COFI et al, a reasonable split of the costs would be 25% to the utility account and 75% not to be included within the utility account.

EUG was of the view that the engineering costs necessary for an adequate application should be approved as well as the costs attendant in reasonable preparation of Westcoast's applications. EUG argued that recovery of costs beyond those identified should be denied because they were not prudent when incurred and they did not result in any used and useful assets that would provide a benefit for Westcoast's customers.

BC Gas took the position that there should be no cost recovery with regard to Grizzly Valley. In the view of BC Gas, the facts that are relevant to this assessment are: Westcoast realized that this was not a normal situation; Westcoast clearly saw some risks involved in this project; and Westcoast required the producers to sign a backstopping agreement. Further, BC Gas argued that the risks that were



contemplated by the agreement came to pass and the producers who signed the agreement should not be allowed to remove themselves from responsibility for the associated costs.

NORPAC was opposed to the roll-in of the Grizzly Valley costs into Westcoast's tolls because it has particular concerns about the costs which have been attributable to Zone 3. NORPAC stated that, if the Board permits roll-in of costs of projects which are withdrawn, then it should restrict roll-in to those cost elements which were clearly necessary for the regulatory application. NORPAC also submitted that Zone 3 shippers should not be responsible for the \$562,000 which Westcoast spent on investigating a possible pipeline route to Alberta.

### *Views of the Board*

Based upon the evidence and arguments before it in this proceeding, the Board views the Grizzly Valley project in a different manner than the Fort St. John project. The Grizzly Valley project was described by Westcoast during the proceeding as being a unique project that was developed under unique circumstances. Two unique features were mentioned: first, a partnership or joint venture approach was adopted with the expansion shippers participating in the management of the project; and second, the gas supply was to be developed in tandem with the project, due to the high cost of developing gas supply in the area. Another factor which distinguishes the Grizzly Valley project from the Fort St. John project was that the Grizzly Valley project application was withdrawn before it was heard by the Board.

Concerns with respect to the development of the gas supply, in addition to concerns with respect to tolling issues, led Westcoast to assess that the Grizzly Valley project was different enough from its other expansion projects and presented enough risks that the Company required that the Grizzly Valley shippers share in those risks by entering into a backstop agreement. Those risks eventually materialized when, after the release of the Federal Court Decision in February 1996, Westcoast determined that there was insufficient demand for the capacity and, therefore, decided not to proceed with the project.

Under these circumstances, the Board is of the view that none of the project development costs should be allowed.

### **Decision**

**The Board denies recovery of the project development costs of \$18.53 million, including AFUDC, for the GV Expansion.**

## Chapter 5

# Interim and Final Tolls

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By Order TGI-8-96 dated 23 December 1996, the Board approved tolls that the Company may charge for services provided to customers on the Westcoast system on an interim basis effective 1 January 1997.

The Board takes the view that final tolls for 1997 should be at the same level throughout the year. Westcoast will be required to refund to or, where applicable, recover from its customers the difference between the tolls resulting from these Reasons for Decision and those approved on an interim basis by Order TGI-8-96, together with carrying charges at the rate of return approved in connection with the recovery of FSJ Expansion costs.

In these Reasons for Decision, the Board has not determined final tolls for 1997. Accordingly, Westcoast is required to file for Board approval new tolls with supporting schedules reflecting the Board's decisions in Chapters 2, 3 and 4. These tolls, tariffs and supporting schedules are to be filed with the Board forthwith and served on intervenors. Westcoast's filing should include detailed explanations and, where necessary, tables or working papers to satisfy the Board that the new tolls reflect its decisions.

### **Decision**

**The Board intends to approve final tolls for 1997 which are uniform throughout the 1997 calendar year. Westcoast is directed to refund to its customers or, where applicable, recover from its customers the difference between the tolls resulting from these Reasons for Decision and those approved on an interim basis by Order TGI-8-96, together with carrying charges at the rate of return approved in connection with the recovery of FSJ Expansion costs.**

**The Board directs Westcoast to file forthwith final tolls for 1997 and, where applicable, for subsequent years, reflecting its decisions on matters considered in the RH-2-97 proceeding.**

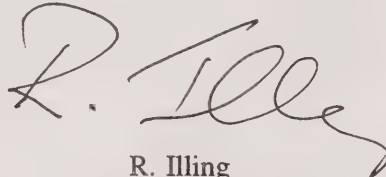


## Chapter 6

# Disposition

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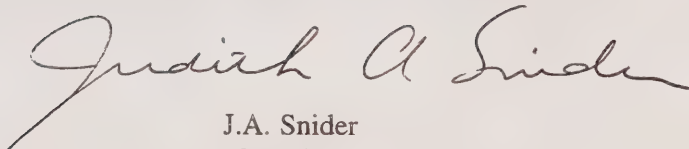
The foregoing chapters, together with Order TG-3-97, constitute our Decision and Reasons for Decision on matters considered in the RH-2-97 proceeding.



R. Illing  
Presiding Member



R. Priddle  
Member



J.A. Snider  
Member

Calgary, Alberta  
August 1997

## Appendix I

### Order TG-3-97

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#### Order TG-3-97

IN THE MATTER OF the *National Energy Board Act* (the "Act") and the Regulations made thereunder; and

IN THE MATTER OF an application dated 6 November 1996, as amended on 20 May 1997, by Westcoast Energy Inc. ("Westcoast") for approval of interim and final tolls pursuant to subsection 19(2) and Part IV of the Act, and filed with the National Energy Board (the "Board") under File No. 4200-W005-10.

BEFORE the Board on 14 August 1997.

WHEREAS Westcoast, by application dated 6 November 1996 applied to the Board for an order or orders under subsection 19(2) and Part IV of the Act fixing just and reasonable tolls that Westcoast may charge, effective 1 January 1997, for raw gas transmission, processing and residue gas transportation services that it provides;

AND WHEREAS on 23 December 1996, the Board issued Order TGI-8-96, which authorized Westcoast to charge, on an interim basis effective 1 January 1997, tolls that would yield an increase of ten percent over the 1996 approved tolls for a typical service movement from Zone 1 to the export point of Zone 4;

AND WHEREAS Westcoast had been negotiating with certain parties a multi-year toll settlement and on 18 February 1997 advised the Board that it would be in a position to file a revised application based on the outcome of these negotiations in the second quarter of 1997;

AND WHEREAS on 2 May 1997 the Board initiated an information request process to expedite the consideration of issues related to the recovery of expenditures incurred by Westcoast for the Fort St. John and the Grizzly Valley expansion projects after Westcoast stated that any negotiated settlement would not encompass these two issues;

AND WHEREAS on 20 May 1997 Westcoast filed an amended application for final tolls effective 1 January 1997, which incorporated a multi-year incentive toll settlement concerning the tolls, or the methodology for determining tolls, which Westcoast may charge over the period 1 January 1997 to 31 December 2001 (the "Settlement");

AND WHEREAS the Board held a public hearing pursuant to Hearing Order RH-2-97 in Vancouver, British Columbia commencing 23 June 1997;



AND WHEREAS the Board's decisions on issues considered in the RH-2-97 proceeding and its Reasons for Decision on Westcoast's application dated 6 November 1996, as amended on 20 May 1997, are set out in its RH-2-97 Reasons for Decision dated August 1997 and in this Order;

IT IS ORDERED PURSUANT TO PART IV AND SECTION 129(1.1) OF THE ACT THAT:

1. Westcoast shall calculate new tolls in accordance with the decisions set out in the RH-2-97 Reasons for Decision and shall forthwith file with the Board for approval and serve on all intervenors to the RH-2-97 proceeding, new tariffs implementing these new tolls;
2. Westcoast shall, for accounting, toll-making and tariff purposes, implement procedures to give effect to and conform with the Board's decisions contained in the RH-2-97 Reasons for Decision, including the decision approving, as filed, the Settlement of 16 May 1997 between Westcoast and certain parties;
3. Westcoast's facilities in Zone 1 and Zone 2 are exempted, as appropriate, from sections 48 to 55 of the *Gas Pipeline Uniform Accounting Regulations* for the period in which the Settlement is in effect;
4. Order TGI-8-96, which authorized tolls that Westcoast may charge on an interim basis pending final determination on matters considered in the RH-2-97 proceeding, is revoked and the tolls that have been authorized thereunder are disallowed;
5. Westcoast is directed to refund to its customers or, where applicable, recover from its customers the difference between the tolls determined by the Board to be just and reasonable in this Order, together with carrying charges at the rate of return approved in connection with the recovery of Fort St. John Expansion Project costs; and
6. Those provisions of Westcoast's tolls and tariffs, or any portion thereof, that are contrary to any provision of the Act, the Board's RH-2-97 Reasons for Decision dated August 1997 or any Order of the Board including this Order, are hereby disallowed.

NATIONAL ENERGY BOARD

M.L. Mantha  
Secretary

## Appendix II

### Order TGI-8-96

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#### Order TGI-8-96

IN THE MATTER OF the *National Energy Board Act* ("the Act") and the Regulations made thereunder; and

IN THE MATTER OF an application by Westcoast Energy Inc. ("Westcoast" or "Applicant") dated 6 November 1996 for approval of interim and final tolls commencing 1 January 1997 pursuant to subsection 19(2) and Part IV of the Act, filed with the Board under File No. 4200-W005-10.

BEFORE the Board on 18 December 1996.

WHEREAS Westcoast has filed an application dated 6 November 1996 ("the application") for approval under subsection 19(2) and Part IV of the Act to change its tolls effective 1 January 1997;

AND WHEREAS the Board invited interested persons to comment on the merits of Westcoast's request to charge the tolls proposed in the application on an interim basis as of 1 January 1997;

AND WHEREAS the Board considered the comments of interested parties and the reply comments of Westcoast;

AND WHEREAS the Board notes that the Applicant has sought an increase in tolls of 25 percent;

AND WHEREAS the Board recognizes that the evidence submitted by the Applicant in support of an increase has not been tested or contradicted by testimony of other interests;

AND WHEREAS Westcoast's rate of return on common equity is established by the Board in accordance with Order TG/TO-1-95;

AND WHEREAS by letter dated 16 December 1996, the Board initiated a review of Order TG/TO-1-95;

AND WHEREAS the Board does not have sufficient relevant information to render a decision regarding tolls that Westcoast may charge on a final basis as of 1 January 1997 at this time;

AND WHEREAS the Board is of the view that it would be reasonable in the circumstances to provide for an interim increase in tolls of ten percent, subject to further scrutiny at a public hearing of the Applicant's request for an increase in tolls above the level of tolls set in 1996;



IT IS ORDERED THAT:

1. Westcoast shall charge, on an interim basis effective 1 January 1997, tolls that would yield an increase of ten percent for a typical service movement (residue basis with a residue to raw gas ratio of 86 percent and an acid gas percentage of raw gas of 10 percent) from Zone 1 to the export point of Zone 4. The increase of ten percent is to be calculated by reference to tolls approved as of 1 January 1996 on the basis of a settlement between Westcoast and certain parties, the toll design of which was summarized in Appendix 1, "Toll Design 1997, Comparative Firm Tolls - Demand Portion (\$/10<sup>3</sup>m<sup>3</sup>/d)", of the Application section of the Application;
2. All cost of service and revenue deferral accounts currently in effect are continued on an interim basis; and
3. The tolls allowed in this Order shall remain in effect until they are replaced by tolls approved by the Board in another toll order.

NATIONAL ENERGY BOARD

M.L. Mantha  
A/Secretary

## Appendix III

### List of Issues

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This list is designed to assist parties in defining the key issues to be addressed at the hearing. This will not preclude the Board from dealing with other issues which are normally raised by virtue of the Board's mandate pursuant to Part IV of the *National Energy Board Act*.

At the hearing, the Board will consider, *inter alia*, the following issues:

1. Whether the Settlement satisfies the criteria for negotiated settlements set forth in the Board's # Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs dated 23 August 1994.
2. Whether and if so the manner in which the expenditures incurred by Westcoast in connection with the Fort St. John Expansion Project should be allowed for toll-setting purposes.
3. Whether and if so the manner in which the expenditures incurred by Westcoast in connection with the Grizzly Valley Expansion Project should be allowed for toll-setting purposes.



## Appendix IV

# Westcoast Energy Inc. System Map

